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EASTERN DISTRICT OF WASHINGTON

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA  
*EX REL.* JAMES MILLBAUER,

RELATOR,

VS.

CH2M HILL PLATEAU  
REMEDIATION COMPANY,

DEFENDANT.

NO. **2:15-CV-5024-EFS**

**ORIGINAL COMPLAINT**

**FILED UNDER SEAL**

**DEMAND FOR JURY TRIAL**

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**ACRONYMS**

AACM	Alternative Asbestos Control Method
ACM	Asbestos Containing Material
AHERA	Asbestos Hazard Emergency Response Act
ARRA	American Recovery and Reinvestment Act of 2009
CAB	Cement Asbestos Board
CHPRC	CH2M Hill Plateau Remediation Company
D4	Decontamination, Deactivation, Demolition and Decommissioning
D&D	Deactivation & Decommissioning
DOE	United States Department of Energy
EPA	United States Environmental Protection Agency
FWS	Field Work Supervisor
NESHAP	National Emission Standards for Hazardous Air Pollutants
PACM	Presumed Asbestos Containing Material
PBI	Performance-Based Incentives
RACM	Regulated Asbestos Containing Material
TSI	Thermal System Insulation
WBS	Work Breakdown Structure

**I. INTRODUCTION AND SUMMARY OF ALLEGATIONS**

1. This is an action to recover damages, civil penalties, and other relief from Defendant CH2M Hill Plateau Remediation Company (“CHPRC”) arising from fraud on the United States Department of Energy (“DOE”) during the removal of asbestos containing material (“ACM”) from obsolete structures at the Hanford Site.

2. As explained in detail below, DOE awarded CHPRC hundreds of millions of dollars in American Recovery and Reinvestment Act of 2009 (“ARRA”) funds to demolish and dispose of decommissioned ancillary facilities and structures at the Hanford Site.

3. To provide fast economic relief following the Great Recession, ARRA imposed strict expenditure deadlines, requiring CHPRC and its subcontractors to spend ARRA funds by the end of 2011 or risk losing the funds.

4. With time limited, CHPRC elected to tear down decommissioned Hanford facilities without properly removing ACM. In doing so, Defendant knowingly violated contractual and regulatory requirements critical to the safe handling and disposal of ACM.

5. Defendant falsely certified compliance with these requirements in order to obtain payment from the government.

1           6. As a result of Defendant's violations and false certifications,  
2 Defendant defrauded the government out of millions of dollars in falsely claimed  
3 performance based incentive fees.

4           7. Had Defendant complied with contractual and regulatory  
5 requirements, Defendant would have been unable to meet deadlines for ARRA  
6 funding and performance-based incentives, which would have resulted in the  
7 irrevocable loss of millions of dollars in fees.

## 8 **II. PARTIES**

9           8. Defendant CH2M Hill Plateau Remediation Company ("CHPRC") is  
10 the prime government contractor for DOE under the Plateau Remediation Contract.  
11 CHPRC's contractual responsibilities include deactivation and demolition of  
12 Hanford site ancillary facilities and support structures.

13           9. CHPRC is a limited liability company incorporated under the laws of  
14 the state of Washington with its principal business address located at 2420 Stevens  
15 Center Place, Richland, WA 99354. Defendant CHPRC may be served with  
16 process through its registered agent for service, C T Corporation System, at 505  
17 Union Avenue SE, Suite 120, Olympia, Washington 98501.

18           10. Relator James "Jim" Millbauer has been employed at the Hanford site  
19 working primarily as a pipefitter since 1983. Relator Millbauer is currently the  
20 Chief Steward for Local Union 598 Metal Trades at Mission Support Alliance.

1           11. Relator Millbauer has direct and independent knowledge of the  
2 information underlying his claims as set forth in this Original Complaint, and he  
3 voluntarily provided all such information to the United States Government before  
4 its filing.

5 **III. JURISDICTION AND VENUE**

6           12. This action arises under the United States False Claims Act, 31 U.S.C.  
7 § 3729 *et seq.*

8           13. This Court has jurisdiction pursuant to 31 U.S.C. § 3732(a) and 28  
9 U.S.C. § 1331.

10           14. Venue is proper with respect to all parties in the United States District  
11 Court for the Eastern District of Washington pursuant to 28 U.S.C. § 1391(b), (c)  
12 and 31 U.S.C. § 3732(a) because Defendant transacts business in this District, and  
13 because Relator, during all times material to this matter, was employed in this  
14 District.

15           15. There was not, prior to filing the Original Complaint in this case, any  
16 “public disclosure” of the false claims identified herein as that term is used in the  
17 False Claims Act, 31 U.S.C. § 3730(e)(4)(A). However, even if a “public  
18 disclosure” has occurred, the information provided by Relator Millbauer to the  
19 United States Government materially adds to publically disclosed allegations and  
20 transactions, if any. As such, Relator Millbauer is an “original source” of the

1 information underlying and becoming Relator's false claims identified herein, and  
2 Relator's claims are not barred pursuant to 31 U.S.C. § 3730(e)(4)(B).

#### 3 **IV. FACTUAL ALLEGATIONS**

##### 4 **A. Background**

5 16. CHPRC was awarded the Hanford Site Plateau Remediation Contract  
6 on June 19, 2008, a cost-plus award fee contract valued at approximately \$4.5  
7 billion over ten years.

8 17. As part of its contractual scope of work, CHPRC is required to  
9 decontaminate, deactivate, decommission, and demolish ("D4 activities") hundreds  
10 of ancillary buildings and structures at the Hanford Site.

11 18. In addition to obtaining reimbursement for the cost of performing the  
12 work, the Plateau Remediation Contract provides CHPRC the opportunity to claim  
13 millions of dollars in performance-based incentive ("PBI") fees upon concluding  
14 the required scope of work. CHPRC earns these PBI fees after it certifies to DOE  
15 that it has completed D4 activities in accordance with the Plateau Remediation  
16 Contract.

17 19. The Plateau Remediation Contract also specifies that the ancillary  
18 buildings and structures—many of which housed utilities, materials, and equipment  
19 necessary for the overall operation of Hanford—may contain radioactive and  
20 hazardous materials, including asbestos.



1           20. To address this, CHPRC issued several demolition plans with specific  
2 requirements pertaining to asbestos removal:

3           a) U Plant Ancillary Building Removal Action Work Plan, Phase  
4 II, DOE/RL-2004-83, Rev. 1, December 18, 2008;

5           b) Action Memorandum for General Hanford Site  
6 Decommissioning Activities, DOE/RL-2010-22, Rev. 0, March 29, 2010;

7           c) Removal Action Work Plan for Central Plateau General  
8 Decommissioning Activities, DOE/RL-2010-33, April 9, 2010;

9           d) U-Ancillary Buildings 224-U, 224-UA and 203-UX Demolition  
10 Strategy White Paper, April 2010;

11           e) Action Memorandum for Decontamination, Deactivation,  
12 Decommissioning, and Demolition (D4) Activities for 200 East Tier 2  
13 Buildings/Structures, DOE/RL-2010-102, February 2, 2011.

14           21. These “demolition plans” were approved by DOE’s Richland Office,  
15 EPA Region 10 (“EPA”), and the State of Washington Department of Ecology  
16 (“Ecology”).

17           22. Each of the demolition plans required that CHPRC adhere to the  
18 substantive provisions of 40 C.F.R. § 61, Subpart M (§§ 61.140 – 61.157),  
19 National Emission Standard for Asbestos, which mandates special precautions to  
20 control airborne emissions of asbestos fibers during asbestos removal activities.

1           23. In particular, subsection (c) of the Standard for Demolition and  
2 Renovation, 40 C.F.R. § 61.145, requires that all regulated asbestos-containing  
3 (referred to herein as “RACM” or “asbestos”) material be removed from a building  
4 prior to beginning any activity that would break up, dislodge, or disturb the  
5 material. This provision minimizes the emission of asbestos fibers from  
6 demolition activities by preventing heavy equipment or explosives from  
7 pulverizing the RACM and dispersing it by air, which increases the likelihood of  
8 human ingestion or inhalation of the fibers.

9           24. The demolition plans also authorized CHPRC to proceed with  
10 demolition with RACM in place in limited circumstances. Specifically, where  
11 RACM containing material was inaccessible, removal posed significant worker  
12 safety issues, the building was structurally unsound or in danger of imminent  
13 collapse, or removal required initiation of demolition activities, CHPRC was  
14 permitted to employ emission controls similar to EPA’s Alternative Asbestos  
15 Control Method (“AACM”), EPA/600fR-08/094.

16           25. Under the AACM approach, a structure must be continuously wetted  
17 before, during and after demolition; tank, pipe, elbow/fitting/valve, boiler, and duct  
18 insulation must be removed; cement and patching compounds as well as spray-  
19 applied fireproofing and vermiculite insulation must be removed; and all debris  
20  
21

1 must be removed from the work site at the end of the work day and transported to  
2 an appropriate disposal facility.

3 26. CHPRC did not have to obtain prior approval from DOE, EPA, or  
4 Ecology to deviate from 40 C.F.R. 61 requirements and employ AACM. Instead,  
5 CHPRC only had to notify DOE, EPA, and Ecology of its intention to use the  
6 AACM approach.

7 **B. CHPRC Purposely Avoided Implementing Required Asbestos**  
8 **Control Methods in Demolishing Hanford Site Ancillary**  
9 **Buildings and Structures.**

10 27. From 2009 to 2011, CHPRC misrepresented to DOE the extent of  
11 RACM in Hanford Site ancillary buildings and structures and exaggerated the  
12 danger its removal posed to workers in order to falsely validate the use of AACM.

13 28. As detailed below, CHPRC subsequently failed to implement the  
14 AACM controls that were required by the demolition plans approved by DOE,  
15 EPA, and Ecology to accelerate D4 activities and meet performance award fee  
16 deadlines.

17 29. Specifically, CHPRC falsely certified to DOE that it complied with its  
18 demolition plans in tearing down the following groups of buildings in order to  
19 claim performance award fees to which it was not entitled:

1           a)     224U U Plant Concentration Building, 224UA U Plant  
2           Calcination and Loadout Building, and 203UX Concentrated U Plant  
3           Storage Tank Enclosure (collectively referred to herein as “U Plant  
4           Ancillary Buildings”);

5           b)     272E Fabrication Shop;

6           c)     284E Power House, 284W Power House, and 284WB Power  
7           Basin Plant; and

8           d)     209E Critical Mass Laboratory.

9           30.    CHPRC’s uncontrolled demolition activities endangered worker  
10          health and safety and caused the release of asbestos containing material into the  
11          environment.

12          31.    In 2012, after receiving reports of CHPRC’s dangerous work practices  
13          from Relator Millbauer and others, the Region 10 EPA Director issued a Stop  
14          Work order on all Hanford Site activities that could disturb or break up asbestos.

15          32.    Subsequent inspections determined that the demolition work  
16          conducted by CHPRC created an additional 35 sites where asbestos was released  
17          or suspected to have been released to the soil, thereby costing the Government  
18          additional investigation and remediation expenses.

1                   ***1. U Plant Ancillary Buildings***

2           33. To earn a performance base fee of approximately \$1.1 million,  
3       CHPRC was required to “demolish and dispose” of the U Plant buildings by  
4       September 30, 2011 in accordance with the U-Plant Ancillary Facilities Removal  
5       Action Work Plan, DOE/RL-2004-83, Rev. 1.

6           34. As permitted by the Removal Action Work Plan, CHPRC developed a  
7       white paper validating its planned use of AACM.

8           35. In this white paper, CHPRC detailed the control strategies it planned  
9       to implement to minimize asbestos exposure to the environment, and represented  
10      to DOE, EPA, and Ecology that “[w]hen RACM is encountered during the  
11      demolition process, the surrounding material will be removed to the greatest extent  
12      possible, to allow clearer access to the RACM. Once accessible, the RACM will  
13      be extracted and packaged as required, minimizing damage.”

14          36. Nevertheless, CHPRC demolished the U Plant Buildings in 2010 and  
15      2011 without extracting and packaging easily removable RACM.

16          37. Rather, CHPRC knowingly misrepresented to DOE that RACM in  
17      certain areas was inaccessible, disregarding worker concerns, and reneging on  
18      promises to abate the asbestos prior to demolition.

1           38. In September and October of 2009, CHPRC management, safety  
2 representatives, and workers performed a walk down of the U Plant Buildings in  
3 advance of demolition.

4           39. During the walk down, workers questioned whether removable  
5 RACM behind “Hot Boxes” would be abated prior to demolishing the U Plant  
6 Buildings—an activity the workers believed could be easily done with minimal risk  
7 to safety.

8           40. CHPRC management initially told workers that the RACM would be  
9 removed prior to demolition, but never provided instruction to move the Hot Boxes  
10 and abate the exposed RACM.

11           41. To address the issue, insulators—workers specialized in the removal  
12 of asbestos—explained to CHPRC management in March 2010 meetings that the  
13 Hot Boxes could be easily moved, providing access to abate the RACM.

14           42. CHPRC management rejected the insulators’ position. Instead, in May  
15 2010, CHPRC notified EPA, Ecology, and DOE that it planned to demolish the U  
16 Plant Buildings with RACM left in place.

17           43. CHPRC claimed that 3570 pounds of RACM and 8500 ft<sup>2</sup> of ACM  
18 were inaccessible because manual removal posed a significant risk of worker  
19 injury “due to the necessity to remove larger heavy equipment and building  
20 structural components.”

1           44. Once demolition was underway in summer 2010, workers informed  
2           CHPRC management that large pieces of calciners extracted from the 224UA  
3           Building were covered with visible RACM.

4           45. CHPRC took no action to timely package the asbestos or to minimize  
5           asbestos exposure from the calciners, which remained on the ground of the  
6           demolition site of the U Plant Buildings for an extended period of time.

7           46. Indeed, during the demolition of the U Plant Buildings, CHPRC did  
8           not use workers specialized in the removal of asbestos except to clean up a  
9           substantial asbestos spill, despite the fact that CHPRC was explicitly required to  
10          disposition all demolished RACM on a timely basis.

11          47. Specifically, CHPRC's demolition strategy white paper specified that  
12          "[a]ll structure debris handled and packaged as RACM will be dispositioned in a  
13          timely manner to minimize the amount of RACM exposed to the environment.  
14          RACM debris will be [contained and labeled as required by NESHAP] as soon as  
15          practical after removal of the material from the structure."

16          48. Throughout demolition activities, CHPRC allowed the asbestos debris  
17          to sit, uncovered, on the ground of the demolition site for extended periods of time  
18          when the debris could have been easily gathered on a daily basis.

19          49. Workers took issue with CHPRC's practice of leaving exposed  
20          RACM debris on the demolition site, and also raised concerns with CHPRC's

1 practice of running over exposed RACM debris with heavy machinery, such as  
2 back hoes, etc.

3 50. By not regularly picking up asbestos debris and then crushing it with  
4 heavy machinery, CHPRC exacerbated the breakage of asbestos in contravention  
5 of the AACM approach, and increased the likelihood of human inhalation or  
6 ingestion of asbestos fibers and dispersal in the environment.

7 51. Despite representing to DOE, EPA, and Ecology that it would employ  
8 the AACM controls provided in its demolition strategy white paper, CHPRC cut  
9 corners and ignored necessary controls that would have limited asbestos exposure  
10 in order to speed up demolition activities and meet deadlines for performance fee  
11 awards.

12 52. CHPRC then falsely certified to DOE that it demolished the U Plant  
13 Ancillary Buildings in compliance with the Removal Action Work Plan and  
14 demolition strategy white paper in order to obtain the \$1.1 million performance  
15 award fee associated with demolition activities.

16 53. As a result of CHPRC's failure to properly remediate the area, the  
17 Government has incurred additional costs to control the migration of asbestos  
18 containing materials from the demolition sites and prevent further environmental  
19 exposure.



1                   **2.     272E Fabrication Shop**

2           54.   Just as with the U Plant Buildings, CHPRC also cut corners in  
3 applying the AACM approach to the 272E Fabrication Shop, which was largely  
4 demolished in the summer of 2010.

5           55.   To earn a performance based fee of approximately \$230,000, CHPRC  
6 was required to demolish four buildings, including the 272E Fabrication Shop, by  
7 September 30, 2011 in accordance with the Removal Action Work Plan for  
8 Central Plateau General Decommissioning Activities (“Central Plateau Work  
9 Plan”), DOE/RL-2010-33, Rev. 0.

10          56.   However, CHPRC demolished the 272E Fabrication Shop without  
11 implementing key AACM controls promised to DOE, EPA, and Ecology in  
12 CHPRC’s Central Plateau Work Plan, such as:

13           a)    “Building/structures to be demolished with RACM remaining  
14 will be thoroughly and adequately wetted with amended water (water to  
15 which a surfactant has been added) prior to demolition, during demolition  
16 and during debris handling and loading. To the extent feasible, cavity areas  
17 and interstitial wall spaces will be wetted. A fixative or sealant such as  
18 ‘lockdown’ may be used to reduce the potential for fiber and dust generation  
19 during the demolition process. Additionally, fixative or sealant will be used  
20 on demolition debris that will remain undisturbed for greater than 24 hours;”

1           b)     “Breakage of ACM will be minimized, to the extent practical,  
2     and ACM debris generated during that day will be containerized for  
3     disposal;”

4           c)     “The ‘National Emission Standards for Hazardous Air  
5     Pollutants’ (NESHAPs) asbestos standard of ‘no visible emissions’ from  
6     RACM or ACM will be employed;”

7           d)     “Potentially contaminated water will be controlled during  
8     demolition, impervious surfaces will be thoroughly washed with water  
9     following completion of the asbestos-related activities;”

10          e)     “Upon the removal of demolition debris, bare soil within the  
11     asbestos-related demolition area will be excavated to a minimum depth of  
12     7.64 cm (3 in.) or until no debris is found. If berms or other run-off controls  
13     were used to contain water, they will be removed and disposed of as  
14     potentially asbestos-contaminated.”

15          57.     Despite its obligation to minimize asbestos debris, CHRPC took few  
16     measures to prevent unnecessary asbestos exposure during and after demolition  
17     activities.

18          58.     For instance, CHPRC did not provide adequate wetting during  
19     demolition activities. Video taken during the demolition of the 272E Fabrication  
20     Shop shows that CHPRC’s exterior wetting process did not reach all of the areas

1 being demolished, allowing visible emissions to frequently escape the demolition  
2 site.

3 59. In addition, CHPRC failed to close off drains within the 272E  
4 demolition site, which allowed RACM debris to gather and clog drains beyond the  
5 site boundary during demolition activities.

6 60. As with other demolition sites, CHPRC also failed to pick up asbestos  
7 debris on a timely basis, operated heavy machinery which further broke up the  
8 exposed asbestos debris, and did not clear away three inches of soil at the 272E  
9 demolition site.

10 61. Consequently, significant amounts of possible RACM remained on-  
11 site after demolition.

12 62. Nevertheless, by late 2011 CHPRC represented to DOE that 272E site  
13 activities were complete and all asbestos debris on-site had been removed and  
14 packaged.

15 63. Contrary to CHPRC's representation, exposed asbestos debris  
16 remained on and around the 272E site after CHPRC's supposed completion of all  
17 removal activities.

18 64. Relator Millbauer recalls observing dry chunks of RACM, which were  
19 left in the field in and near the demolition sites, in violation of AACM  
20 requirements for debris handling and removal.

1           65. In fact, workers were compelled to issue a Stop Work upon observing  
2 broken pieces of concrete asbestos boards near the 272E site, which they attributed  
3 to CHPRC's use of the AACM during demolition of the 272E Fabrication Shop.

4           66. To resolve the Stop Work, CHPRC agreed to conduct an inspection of  
5 all sites demolished using AACM including the 272E site.

6           67. For the 272E demolition site, the inspection team identified RACM  
7 scattered within the identified perimeter as well as outside the boundary. The team  
8 noted that other industrial hazards remained at the demolition site, including  
9 unlevel concrete, rebar sticking out of the ground, and that tiles containing RACM  
10 remained on the concrete slab, which would require additional remediation.

11           68. Despite representing to DOE, EPA, and Ecology that it would employ  
12 the AACM controls in 272E Fabrication building demolition, CHPRC cut corners  
13 and ignored necessary controls that would have limited asbestos exposure in order  
14 to speed up demolition activities and meet the September 30, 2011 deadline for  
15 performance fee awards.

16           69. CHPRC then falsely certified to DOE that it demolished the 272E  
17 Fabrication Shop in compliance with the Removal Action Work Plan in order to  
18 obtain the \$230,000 performance award fee associated with the demolition  
19 activities.

1        70. As a result of CHPRC's failure to properly remediate the area, the  
2 Government has incurred additional costs to control the migration of asbestos  
3 containing materials from the demolition sites and prevent further environmental  
4 exposure.

5                    **3.    284E Powerhouse, 284W Powerhouse, and 284WB Power**  
6                    **Boiler Plant**

7        71. CHPRC continued its habit of improperly and inadequately  
8 implementing the AACM approach in its demolition of another group of  
9 buildings tied to a significant monetary incentive: the 284E Powerhouse, the  
10 284W Powerhouse, and the 284WB Power Boiler Plant.

11        72. To earn a performance base fee of approximately \$680,000, CHPRC  
12 was required to "demolish and dispose" of the 284E Powerhouse, the 284W  
13 Powerhouse, and the 284WB Power Boiler Plant by September 30, 2011 in  
14 accordance with the Central Plateau Work Plan.

15        73. Consistent with all DOE approved demolition work plans, the Central  
16 Plateau Work Plan also limited CHPRC's usage of AACM to only those instances  
17 where RACM "is inaccessible, removal poses significant worker safety issues, the  
18 building/structure is structurally unsound and/or in danger of imminent collapse, or  
19 removal requires initiation of demolition activities."

1           74. To maintain the demolition schedule, CHPRC management pressured  
2 workers to complete abatement of accessible RACM as soon as possible,  
3 sacrificing safety for speed.

4           75. To further accelerate activities, CHPRC notified EPA, Ecology, and  
5 DOE multiple times starting in January 2011 that the 284E Powerhouse and the  
6 284W Powerhouse would be demolished with RACM in place though CHPRC  
7 knew accessible RACM had yet to be abated.

8           76. Because CHPRC could only employ the AACM in explicitly listed  
9 circumstances, CHPRC management overstated the risk that RACM removal  
10 posed to workers in order to validate performing demolition activities on the 284W  
11 Powerhouse and 284E Powerhouse.

12           77. In fact, in the spring and summer of 2011, workers and safety  
13 representatives protested the extent to which CHPRC claimed RACM to be  
14 inaccessible.

15           78. Safety representatives noted that some of the “inaccessible” RACM  
16 could be easily reached with scaffolding and therefore properly abated, and that  
17 other areas contained no plausible basis to justify use of the AACM.

18           79. Nevertheless, CHPRC ignored its workers and safety representatives  
19 and knowingly misrepresented to DOE and EPA that the RACM was inaccessible.  
20  
21

1           80. Just as with the U Plant Buildings and the 272E Fabrication Shop,  
2           CHPRC demolished portions of the 284W Powerhouse and 284E Powerhouse  
3           without abating accessible RACM or RACM that became accessible during  
4           demolition activities.

5           81. In addition, CHPRC demolished the 284E and 284W Powerhouses  
6           and the 284WB Power Boiler Plant without implementing key AACM controls  
7           promised to DOE, EPA, and Ecology in CHPRC's Central Plateau Work Plan,  
8           such as:

9                   a) "Breakage of ACM will be minimized, to the extent practical,  
10                  and ACM debris generated during that day will be containerized for  
11                  disposal;"

12                  b) "The 'National Emission Standards for Hazardous Air  
13                  Pollutants' (NESHAPs) asbestos standard of 'no visible emissions' from  
14                  RACM or ACM will be employed;"

15                  c) "Potentially contaminated water will be controlled during  
16                  demolition, impervious surfaces will be thoroughly washed with water  
17                  following completion of the asbestos-related activities;"

18                  d) "Upon the removal of demolition debris, bare soil within the  
19                  asbestos-related demolition area will be excavated to a minimum depth of  
20                  7.64 cm (3 in.) or until no debris is found. If berms or other run-off controls

1        were used to contain water, they will be removed and disposed of as  
2        potentially asbestos-contaminated.”

3        82.    Despite its obligation to minimize asbestos debris, CHRPC took few  
4        measures to prevent unnecessary asbestos exposure during and after demolition  
5        activities.

6        83.    For instance, CHPRC did not pick up asbestos debris on a timely  
7        basis—a required activity which would have prevented demolition activities from  
8        causing further asbestos breakage and environmental contamination.

9        84.    In fact, at the 284E and 284W demolition sites, workers complained  
10       of visible emissions from demolition activities, evidencing CHRPC’s failure to  
11       properly wet the structure during demolition to prevent the airborne emission of  
12       asbestos fibers.

13       85.    Further, as with other demolition sites, CHPRC did not clear away  
14       three inches of soil at the 284E, 284W, and 284WB demolition sites and significant  
15       amounts of possible RACM remained after CHPRC claimed completion of  
16       demolition activities.

17       86.    Relator Millbauer recalls observing dry chunks of RACM, which were  
18       left in the field in and near the demolition sites, contrary to AACM requirements  
19       for debris handling and removal.



1           87. In addition, CHPRC failed to close off drains within the 284E  
2 demolition site.

3           88. In January 2012, inspections confirmed CHPRC's failure to  
4 implement the AACM controls at the 284E, 284W and 284WB demolition sites  
5 and determined that additional remediation would be required to close these areas.

6           89. For the 284E demolition site, immediate confinement controls were  
7 required to prevent the further spread of the ACM, including: closing the access  
8 road bisecting the area, establishing boundary controls and postings surrounding  
9 the powerhouse, applying a fixative to the ACM until the implementation of  
10 further corrective actions, and adding additional controls to a nearby work package  
11 to alert workers of the potential to encounter asbestos.

12           90. For the 284W and 284WB demolition sites, immediate and long term  
13 controls were implemented, including boundary controls and postings to inform  
14 workers of asbestos dangers located in and around the demolition sites.

15           91. Despite representing to DOE, EPA, and Ecology that it would employ  
16 the AACM controls in demolishing the 284E Powerhouse, 284W Powerhouse, and  
17 284WB Power Boiler Plant, CHPRC cut corners and ignored necessary controls  
18 that would have limited asbestos exposure in order to speed up demolition  
19 activities and meet deadlines for performance fee awards.

1           92.   CHPRC then falsely certified to DOE that it demolished the 284E  
2   Powerhouse, 284W Powerhouse, and 284WB Power Boiler Plant in compliance  
3   with the Central Plateau Work Plan in order to obtain the \$680,000 performance  
4   award fee associated with the demolition activities.

5           93.   As a result of CHPRC's failure to properly remediate the area, the  
6   Government has incurred additional costs to control the migration of asbestos  
7   containing materials from the demolition sites and prevent further environmental  
8   exposure.

9                   **4.    209E Laboratory**

10          94.   CHPRC continued its pattern of improperly relying on the AACM to  
11   avoid performing required RACM abatement activities in demolishing the 209E  
12   Critical Mass Laboratory.

13          95.   To earn a performance award fee of approximately \$1.1 million,  
14   CHPRC was required to "demolish and dispose" of the 209E Laboratory by  
15   September 30, 2011 in accordance with the Action Memorandum for  
16   Decontamination, Deactivation, Decommissioning, and Demolition (D4) Activities  
17   for 200 East Tier 2 Buildings/Structures, DOE/RL-2010-102, Rev. 0.

18          96.   In August 2011, CHPRC provided notice to EPA, Ecology, and DOE  
19   that it planned to demolish the 209E Laboratory with 35 ft<sup>3</sup> of inaccessible RACM  
20   left in place because its removal posed a safety risk to workers.

1           97. Once again workers and safety representatives believed that CHPRC  
2 improperly classified RACM at the 209E Laboratory as inaccessible.

3           98. On August 30, 2011, workers issued a stop work on 209E Laboratory  
4 demolition activities, asserting that much of the “inaccessible” RACM could be  
5 removed safely and compliantly prior to demolition.

6           99. Though CHPRC management Ruben Trevino made assurances that  
7 RACM abatement would be performed safely, workers lacked confidence in  
8 Trevino’s claims, as he failed to follow through on past assurances made when  
9 CHPRC demolished the 284W Powerhouse without removing accessible RACM.

10           100. Nevertheless, the Stop Work was lifted without resolving the workers  
11 concerns, and CHPRC proceeded to demolish the 209E Laboratory with accessible  
12 RACM in place.

13           101. In doing so, CHPRC failed to implement required AACM controls,  
14 such as:

- 15           a) “Building/structures to be demolished with RACM remaining  
16 will be thoroughly and adequately wetted with amended water (water to  
17 which a surfactant has been added) prior to demolition, during demolition  
18 and during debris handling and loading. To the extent feasible, cavity areas  
19 and interstitial wall spaces will be wetted. A fixative or sealant such as  
20 ‘lockdown’ may be used to reduce the potential for fiber and dust generation

1 during the demolition process. Additionally, fixative or sealant will be used  
2 on demolition debris that will remain undisturbed for greater than 24 hours;”

3 b) “Breakage of ACM will be minimized, to the extent practical,  
4 and ACM debris generated during that day will be containerized for  
5 disposal;”

6 c) “The ‘National Emission Standards for Hazardous Air  
7 Pollutants’ (NESHAPs) asbestos standard of ‘no visible emissions’ from  
8 RACM or ACM will be employed;”

9 d) “Potentially contaminated water will be controlled during  
10 demolition, impervious surfaces will be thoroughly washed with water  
11 following completion of the asbestos-related activities;”

12 e) “Upon the removal of demolition debris, bare soil within the  
13 asbestos-related demolition area will be excavated to a minimum depth of  
14 7.64 cm (3 in.) or until no debris is found. If berms or other run-off controls  
15 were used to contain water, they will be removed and disposed of as  
16 potentially asbestos-contaminated.”

17 102. Despite its obligation to minimize asbestos debris, CHRPC took few  
18 measures to prevent unnecessary asbestos exposure during and after demolition  
19 activities.

1           103. For instance, on November 28, 2011, a Stop Work Order was issued  
2 following a visible concrete dust cloud that went beyond the 100 foot demolition  
3 boundary surrounding the 209E site. Workers attributed the visible emissions to  
4 ongoing inadequate wetting techniques used during the demolition process.

5           104. Further, CHPRC did not pick up asbestos debris on a timely basis to  
6 prevent further breakage from demolition activities, and Relator Millbauer recalls  
7 observing dry chunks of RACM, which were left in the field in and near the  
8 demolition sites, contrary to AACM requirements for debris handling and removal.

9           105. Despite representing to DOE, EPA, and Ecology that it would employ  
10 the AACM controls in demolishing the 209E Laboratory, CHPRC cut corners and  
11 ignored necessary controls that would have limited asbestos exposure in order to  
12 speed up demolition activities and meet deadlines for performance fee awards.

13           106. CHPRC then falsely certified to DOE that it demolished the 209E  
14 Laboratory in compliance with the Action Memorandum and work plans in order  
15 to obtain the performance award fee associated with the demolition activities.  
16 DOE awarded CHPRC only partial fee because CHPRC did not meet the deadline  
17 associated with the performance award.

18           107. As a result of CHPRC's failure to properly remediate the area, the  
19 Government has incurred additional costs to control the migration of asbestos  
20  
21

1 containing materials from the demolition sites and prevent further environmental  
2 exposure.

3       **C.    Inspections Reveal CHPRC Violated Asbestos Control**  
4               **Requirements at Other Demolition Sites.**

5       108. On December 14, 2011, the U.S. EPA Office of Inspector General  
6 published “Early Warning Report: Use of Unapproved Asbestos Demolition  
7 Methods May Threaten Public Health.”

8       109. The report indicated that the use of unapproved methods for  
9 demolition of buildings containing asbestos could jeopardize the health and safety  
10 of the public, as “[d]emolition equipment applies mechanical forces that shred the  
11 RACM, potentially releasing asbestos fibers into the environment and endangering  
12 public health.”

13       110. Given the seriousness of the report, EPA Administrator Lisa Jackson  
14 issued an immediate initial response to Inspector General (“IG”) Arthur A. Elkins,  
15 Jr. assuring the IG that it had begun investigations into the allegations and would  
16 take “whatever steps are necessary to protect the health of anyone who might be  
17 exposed.”

18       111. On January 12, 2012, a month after EPA issued its Early Warning  
19 Report, a Stop Work Order was initiated on all Hanford Site demolition activities  
20 using the AACM approach.

1           112. Relator Millbauer attended several site inspections that occurred in the  
2 weeks following the stop work, including an inspection on January 31, 2012  
3 wherein an asbestos inspection team identified ACM of various shapes and sizes  
4 ranging from one quarter inch to four inches, corrugated transite asbestos siding,  
5 roofing, and floor tile, and fibrous cloth-like material in and around buildings 284-  
6 E, 284-W, 272-E, 209-E, the “Industrial 7” buildings, including 272-W and 277-  
7 W, and buildings in the 100K Area, including 1720K, 1717K, 110KW, and  
8 182K—all of which were tied to performance award fees.

9           113. The inspection team additionally found that 40 percent of the 200  
10 West steam lines had exposed friable asbestos with about 5 percent presenting an  
11 imminent potential danger to personnel.

12           114. As a result of the team’s findings, Mission Support Alliance (“MSA”)   
13 Director of Environment, Health and Safety initiated “immediate actions to include  
14 wrapping and posting the areas posing the greatest risk to 200 West area  
15 personnel.”

16           **D. EPA and Ecology Instruct CHPRC to Stop Work and Cease Use**  
17           **of the AACM.**

18           115. The following month, on March 1, 2012, the Region 10 EPA Director  
19 issued a stop work order on all asbestos work for all contractors on the Hanford  
20  
21

1 site, which extended to any work that would disturb asbestos containing material in  
2 all buildings, facilities, and areas.

3 116. That same day, EPA and Ecology revoked its concurrence on previous  
4 Action Memoranda and associated documents which enabled CHPRC to employ  
5 alternate asbestos control methods, thereby requiring CHPRC to comply with 40  
6 C.F.R. § 61, Subpart M, in performance of all future deactivation and demolition  
7 activities.

8 117. In subsequent inspections, it was determined that the demolition work  
9 conducted by CHPRC created an additional 35 sites where asbestos was released  
10 or suspected to have been released to the soil, which require additional  
11 investigation and possible remediation, “in large part because of the manner in  
12 which demolition work was performed.”

### 13 COUNT I

#### 14 False Claims Act

#### 15 31 U.S.C. §§ 3729(a)(1) and (a)(2)

16 118. The allegations of paragraphs 1 through 117 are realleged as if fully  
17 set forth herein.

18 119. This is a claim for treble damages and penalties under the False  
19 Claims Act, 31 U.S.C. § 3729 *et seq.*, as amended.  
20  
21



1           120. Through the acts described above, Defendant through its officers,  
2 agents, and employees, knowingly presented or caused to be presented false or  
3 fraudulent claims, records, and statements for payment or approval to the United  
4 States.

5           121. Through the acts described above, Defendant knowingly made, used,  
6 or caused to be made or used false records and statements, and omitted material  
7 facts, to induce the Government to pay or approve such false or fraudulent claims.

8           122. Each time Defendant submitted a request for payment or approval to  
9 the United States in conjunction with the AACM and its D4 Activities certifying  
10 compliance with contractual requirements, Defendant caused the presentation of a  
11 false or fraudulent claim. In addition, each monthly ARRA cost summary  
12 containing an express certification of compliance with contractual requirements  
13 represents a false or fraudulent claim.

14           123. Defendant acted knowingly; that is, Defendant possessed actual  
15 knowledge that the claims were false or fraudulent; acted in deliberate ignorance of  
16 the truth or falsity of the claims; or acted with reckless disregard for the truth or  
17 falsity of the claims.

18           124. The United States made payments and approvals to Defendant for D4  
19 operations and the use of the AACM in reliance on false and fraudulent records,  
20 statements, and claims made or caused to be made by Defendant.

1           125. Had the United States known the true nature and extent of  
2 Defendant's false and fraudulent records, statements, and claims, the United States  
3 would not have made payments to Defendant.

4           126. By reason of Defendant's acts, the United States has been damaged in  
5 the amount of hundreds of millions of dollars.

6 **V. JURY REQUEST**

7           127. Relator requests a trial by jury.

8 **VI. PRAYER FOR RELIEF**

9           128. WHEREFORE, Plaintiff, United States of America, through Relator,  
10 request the Court enter the following relief:

11           a. That Defendant be ordered to cease and desist from violating 31  
12 U.S.C. § 3729 *et seq.*;

13           b. That this Court enter judgment against Defendant in an amount  
14 equal to three times the amount of damages the United States has sustained  
15 because of Defendant's actions, plus a civil penalty of not less than \$5,500  
16 and not more than \$11,000 for each violation of 31 U.S.C. § 3729;

17           c. That Relator be awarded the maximum amount allowed  
18 pursuant to 31 U.S.C. § 3730(d) of the False Claims Act;

19           d. That Relator be awarded all costs of this action, including  
20 attorneys fees and expenses; and

1 e. That Relator recovers such other relief as the Court deems just  
2 and proper.

3 All of which is respectfully submitted this 23<sup>rd</sup> day of March, 2015.

4 EYMANN ALLISON HUNTER JONES P.S.

5 

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